

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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Kingsley Palmer,  
Sharon Palmer,

Plaintiffs,

**Case No. 19-cv-5542  
(RKK) (CLP)**

-against-

**AFFIDAVIT**

The City Of New York,  
Inspector Elliot,  
Colon,  
Ramos,  
Reggie aka Frank Singh,  
E 40 Buyers IG, LLC,  
Stephen Samuel Weintraub,  
John Doe #1-2,

Defendants.  
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STEPHEN S. WEINTRAUB, being duly sworn, hereby swears the following to be true under the penalties of perjury:

1. I am an attorney duly admitted to practice law before the Courts of the State of New York and a Defendant in the above-referenced action. I submit this Affidavit in support of the instant motion to dismiss the complaint as myself, Stephan S. Weintraub, pursuant to Rule 12(b)(6) based on the failure of Plaintiff Kingsley Palmer and Sharon Palmer's ("Plaintiffs") failure to set forth a valid cause of action against me. I base this affidavit on my personal knowledge and a review of the files maintained by my office.

2. Plaintiffs allege in this action that I am liable for their alleged wrongful eviction. *See* Complaint. In this regard, Plaintiffs allege violations of 42 U.S.C.S. §§ 1983 and 1988, the Fourth, Fifth and Fourteenth Amendments to the United States Constitution, and violations of §§ 5, 6 and 12 of the New York State Constitution.

3. I was retained by Co-Defendant, E 40 Buyers IG, LLC (“E40 Buyers”), in connection with a Landlord Tenant hold-over proceeding in Kings County Civil Court, Index No. LT-082907-18/KI (“Holdover Proceeding”). The purpose of my representation was to obtain a judgment of possession against Plaintiffs following E 40 Buyers purchase of the property occupied by Plaintiffs at a foreclosure sale, held pursuant to a judgment of foreclosure in a separate foreclosure action entitled *MTGLQ Investors, LP v. Kingsley Palmer et al*, Index No., 508193/2013 (Kings County Supreme Court) (the “Foreclosure Action”).

4. I never appeared in person at any court hearing with respect to the Holdover Proceeding. Instead, I retained Marc Aronson, Esq. (“Attorney Aronson”), to appear on my behalf on a per diem basis.

5. On February 28, 2019, after a bench trial in which Attorney Aronson appeared, Housing Court Judge Jeannine B. Kuzneiski issued a judgment of possession for E 40 Buyers against Plaintiffs. My representation of E40 Buyers concluded when the Holdover Action was disposed of on February 28, 2019.

6. I was neither retained nor involved with E 40 Buyers’ obtaining a warrant of eviction against the Plaintiffs and did not contact the police or City Marshall on their behalf.

7. I was not retained by E 40 Buyers and never appeared on their behalf in connection with the separate Foreclosure Action. As such, I did not appear, was not retained, nor did I send anyone to appear on my behalf at the June 26, 2019 hearing in connection with the Foreclosure Action.

8. I was never retained, nor did I take any action at any time, with regard to the Plaintiffs’ eviction other than obtaining a judgment of possession against them.

WHEREFORE, it is respectfully requested that this action be dismissed as against me with prejudice, together with such other and further relief as the court deems proper in the circumstances.

  
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Stephen S. Weintraub

Sworn to before me this  
21 day of May, 2020

  
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NOTARY PUBLIC

*via video conference pursuant to Executive Order 202.7*  
Rachel Aghassi  
Notary Public of the State of New York  
Registration No. 02AG6327955  
New York County  
Exp. 8/3/23